

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KEITH D. SEWELL,)	
)	Civil Action No. 04-85E
Plaintiff,)	
)	District Judge Cohill
vs.)	Magistrate Judge Baxter
)	
)	
UNITED STATES OF AMERICA,)	Electronically Filed
)	
Defendant.)	

MOTION FOR LEAVE TO DEPOSE PLAINTIFF

AND NOW, comes Defendant, United States of America, by and through its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Lee J. Karl, Assistant United States Attorney for the same District, and respectfully requests leave to depose Plaintiff Keith D. Sewell, and in support thereof, avers as follows:

1. Pursuant to Rule 30(a)(2) of the Federal Rules of Civil Procedure, Defendant hereby makes an application to the Court for leave to take the deposition of Plaintiff, Keith D. Sewell, who is presently confined in the United States Penitentiary in Lewisburg, Pennsylvania. Mr. Sewell is the Plaintiff in this case in which he has filed a negligence lawsuit against Defendant.

2. The deposition is intended to be taken upon oral examination at the Lewisburg Penitentiary on October 5, 2005. In the alternative, depending on Defense Counsel's availability, the deposition might be taken via live video conferencing on October 5, 2005.

3. Rule 30 provides that "a party must obtain leave of Court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison" None of the discovery limitations set forth in Rule 26(b)(2) apply to this

case, namely, (1) the discovery sought is not unreasonably cumulative or duplicative and, (2) the burden or the expense of the proposed discovery does not outweigh its likely benefit taking into account the needs of the case, the amount in controversy, the party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

4. For these reasons, the undersigned respectfully requests that the Court grant leave to take the deposition of Plaintiff by oral examination.

WHEREFORE, Defendant respectfully requests that the Motion for Leave to Depose be granted.

Dated: September 12, 2005

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

s/ Lee J. Karl
LEE J. KARL
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PA I.D. No. 87856

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September, 2005, a true and correct copy of the within Motion for Leave to Depose Plaintiff was served via first-class U.S. mail upon the following:

Keith D. Sewell
Reg. No. 10042-055
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

/s/ Lee J. Karl

Lee J. Karl

Assistant U.S. Attorney